

Message Text

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FOR L/M/SCA MISS HUMMER

EO 11652 NA

TAGS CGEN CA EI

SUBJ EXTRADITION: JOHN PATRICK O'SULLIVAN

1. CANADIAN JUSTICE DEPARTMENT IS STUDYING QUESTION OF WHETHER PERSON CONVICTED OF MURDER BY MILITARY COURT UNDER UCMJ CAN BE EXTRADITED TO U.S. TO HELP IN ARRIVING AT INFORMAL OPINION AS TO HOW EXTRADITION JUDGE MIGHT VIEW SUCH REQUEST BY USG, A JUSTICE ATTORNEY (WINDELS) HAS ASKED FOR ANSWERS TO FOLLOWING QUESTIONS:

(A) WHERE WAS OFFENSE COMMITTED?
(B) WAS OFFENSE COMMITTED WHILE SUBJECT WAS AWOL (I.E., IN WHAT DUTY STATUS WAS SUBJECT WHEN COMMITTING OFFENSE)?
(C) DOES U.S. HAVE SOFA WITH VIETNAM?
(D) IF NO SOFA WITH VIETNAM, WHAT IS BASIS FOR U.S. JURISDICTION OVER SUBJECT? (WEBSTER ASHBURTON TREATY OF 1842 USES PHRASE "COMMITTED WITHIN JURISDICTION OF EITHER".)
(E) CAN DEPARTMENT CITE ANY INTERNATIONAL LAW AUTHORITIES OR OPINIONS REGARDING STATUS OF MILITARY COURTS AS RELATED TO EXTRADITION, ESPECIALLY WHERE THERE IS NO SOFA WITH RESPECT TO COUNTRY IN WHICH U.S. IS EXERCISING JURISDICTION.

2. AS DEPARTMENT AWARE, SUBJECT IS NOW SERVING SENTENCE IN CANADA UPON CONVICTION FOR ARMED ROBBERY.

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3. COMMENT: WHILE A JUSTICE ATTORNEY INFORMALLY USED SUCH PHRASE AS "PROBABLY OK" RESPECTING ACCEPTABILITY OF COURTMARTIAL CONVICTION AS BASIS FOR EXTRADITION REQUEST, THERE APPEARS TO BE SOME SENSITIVITY RESPECTING POSITION OF REPUBLIC OF IRELAND WHICH HAS INDICATED INTEREST IN SUBJECT'S DEPORTATION TO IRELAND.

LEARY

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